

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

ART SHY, et al., : Case No. 3:92-cv-00333-WHR
Plaintiffs, : (District Judge Walter H. Rice)
v. :
NAVISTAR INTERNATIONAL : NAVISTAR'S MOTION FOR LEAVE
CORPORATION, et al., : TO FILE A SURREPLY IN
Defendants. : OPPOSITION TO JACK D. HALL'S
: *PRO SE* MOTION FOR
: INTERPRETATION AND
: ENFORCEMENT OF THE SHY
: CONSENT JUDGMENT, SHY PLAN
: SECTION 6.7 EXPENSES

Navistar, Inc. ("Navistar" or the "Company") moves for leave to file *instanter* a surreply in opposition to Jack D. Hall's *pro se* Motion for Interpretation and Enforcement of the Shy Consent Judgment ("Motion," Dkt. No. 464). Navistar's proposed surreply is attached hereto as Exhibit 1. In support of this motion, Navistar states as follows:

1. On October 30, 2014, Hall filed a motion seeking enforcement of the 1993 Consent Decree to recover compensation and expenses that he believes he is owed as a member of the Health Benefit Program Committee ("HBPC" or the "Committee") of the Navistar, Inc. Retiree Health Benefit and Life Insurance Plan (the "Plan"). Dkt. No. 464. Hall argues that he is entitled under the Plan to unilaterally determine his compensation and expenses for his activities as the HBPC's Other Member with no oversight or accountability whatsoever.

2. On November 20, 2014, Navistar filed a response to Hall's motion asserting among other things that Hall's request for compensation and expenses should be subject to advance review and approval by the HBPC in accordance with reimbursement procedures that had previously been established by the Committee. Dkt. No. 465. Because the Committee's reimbursement procedures were put in place before Hall was appointed, Navistar in good faith

also paid Hall for all compensation and expenses invoiced as of November 19, 2014 (without admitting the legitimacy of Hall's fees and expenses). Six days later, on November 25, Hall was afforded a full and fair opportunity to participate in discussions at a scheduled HBPC meeting about how expense compensation and reimbursement requests should be handled going forward.

3. Hall filed a reply memorandum on November 25 containing new false assertions and accusations directed at Navistar and its corporate employees and counsel. Dkt. No. 466. Most of Hall's misstatements have no bearing on the central issue presently before the Court – i.e., whether the HBPC has the authority to review and preapprove requests for compensation and expenses by individual Committee members. However, Navistar wishes to respond to a few discrete issues in Hall's reply memorandum which underscore why the matter of compensation and expense reimbursement should be deferred to the Committee.

4. Navistar therefore requests the opportunity to file the attached surreply in order to address these new assertions in Hall's reply memorandum.

5. On the morning of December 15, 2014, Navistar's counsel sent an email to Hall asking whether Hall would agree not to oppose this motion for leave. As of the time of this filing, Hall has not yet decided whether he will oppose this motion. In the event he agrees to the filing of this motion, counsel will notify the Court.

WHEREFORE, Defendants respectfully request leave to file *instanter* the attached surreply in opposition to Jack D. Hall's *pro se* Motion for Interpretation of the Shy Consent Judgment, Shy Plan Section 6.7 Expenses.

Dated: December 15, 2014

Respectfully submitted,

COOLIDGE WALL CO., L.P.A.

s/ David P. Pierce

DAVID P. PIERCE (0061972)
33 W. First Street, Suite 600
Dayton, OH 45402
Phone: 937-223-8177
Fax: 937-223-6705
E-mail: pierce@coollaw.com

*TRIAL ATTORNEY FOR DEFENDANTS
NAVISTAR INTERNATIONAL
CORPORATION, ET. AL.*

OF COUNSEL:

David P. Radelet
Sally J. Scott
William R. Pokorny
Abizer Zanzi
FRANCZEK RADELET P.C.
300 S. Wacker Drive, Suite 3400
Chicago, IL 60606
Phone: 312-986-0300
Fax: 312-986-9192

*Admitted Pro Hac Vice as Attorneys for Defendant
Navistar, Inc.*

CERTIFICATE OF SERVICE

I hereby certify that on December 15, 2014, a copy of the foregoing was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's CM/ECF. Parties may access the filing through the Court's system. A copy of this filing will be forwarded via regular U.S. mail to the following:

Jack D. Hall
40 E. Ash Street, Suite H
Canton, IL 61520

s/ David P. Pierce
David P. Pierce

w:\wdox\client\009025\00382\00726282.docx